

SCOTT H. HANSEN

BLASER, SORENSEN & HANSEN, Chartered

Attorneys at Law
285 N.W. Main
P.O. Box 1047
Blackfoot, Idaho 83221

(208) 785-4700
Fax No. 785-7080
I.S.B. #3551

Attorneys for Defendant

UNITED STATES DISTRICT COURT FOR THE STATE OF IDAHO

UNITED STATES OF AMERICA,

Plaintiff,

vs.

PEDRO DUENAS-RIVERA, aka
JOSE DIAZ,

Defendant.

Case No. CR-04-85-E-BLW

**DEFENDANT'S MEMORANDUM
IN SUPPORT OF MOTION TO
SUPPRESS EVIDENCE**

Defendant, Pedro Duenas-Rivera, through his attorney, Scott H. Hansen, hereby submits this memorandum in support of his motion to suppress.

1. **Evidence to be Suppressed.** Defendant seeks the court's order determining that the drugs found at the apartment of the Defendant should be suppressed. Also, that the Defendant's statements he made at the house to the effect that "the marijuana is mine but not the other stuff that was found" (the detectives will testify that they had not yet told him that they had found cocaine and meth in the apartment).

2. **Three Reasons Why the Motion to Suppress Should Be Granted.** First, this search took place without a search warrant. Second, this search took place without the consent of the Defendant who was the only occupant of the apartment at the time of the search. Third,

the search took place while the Defendant was illegally held in custody. The Defendant was illegally held in custody, because the police had forced their way into the apartment, had restrained the Defendant at the kitchen table and told him that he could not leave, the police then read him his rights and had him sign a paper that the Defendant thought was a Miranda Rights form and the police then proceeded to search the apartment and found illegal drugs.

3. **Legal Support.** The Fourth Amendment to the United States Constitution provides that there will be no warrantless searches.

The US Supreme Court has developed the "Exclusionary Rule" that provides that illegally obtained evidence cannot be used against Defendants. Weeks v. USA, 232 US 383 (1914).

Evidence obtained during an illegal detention should be suppressed by the court. Kaupp v. Texas, 538 US 626 (2003).

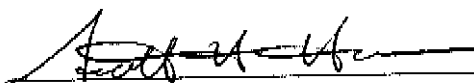
Any confessions made by the Defendant during an illegal detention should be suppressed. Dunaway v. New York, 442 US 200 (1979).

CONCLUSION

Defendant seeks the court's order directing that the government shall be excluded from admitting into evidence at the trial of the Defendant, the drugs found at the apartment and the statements made by the Defendant at the apartment. The grounds for this motion are that the search was done without a warrant, without the Defendant's consent, and that the Defendant's detention was illegal.

DATED and signed this 8th day of October, 2004.

BLASER, SORENSEN & HANSEN, Chrt.

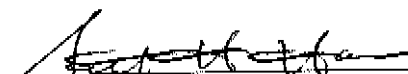
By: 
SCOTT H. HANSEN
Attorneys for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8th day of October 2004, a true and correct copy of the foregoing MEMORANDUM IN SUPPORT OF MOTION TO SUPPRESS EVIDENCE was served by the method indicated below and addressed to each of the following:

Michael J. Fica
Assistant United States Attorney
801 E. Sherman #192
Pocatello, ID 83201

☒ U.S. Mail
☐ Fax (478-4175)
☐ Overnight Delivery
☐ Hand-Delivery


SCOTT H. HANSEN